

**Minutes  
HEARING OFFICER  
APRIL 5, 2011**

**Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.**

**Present:**

Vanessa MacDonald, Hearing Officer  
Steve Abrahamson, Planning & Zoning Coordinator  
Nick Graves, Planner  
Sherri Lesser, Senior Planner

**Number of Interested Citizens Present: 8**

**Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by April 19, 2011 at 3:00 PM to the Community Development Department.**

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1. Ms. MacDonald noted that the Hearing Officer Minutes for March 15, 2011 had been reviewed and approved.
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2. Request by **FRY'S FOOD STORE NO. 101 (PL110051)** (Elias Flake/Metro Architecture, applicant; Smith's Food & Drug Centers Inc., property owner) located at 3232 South Mill Avenue in the CSS, Commercial Shopping and Services District for:

**ZUP11021** Use permit to allow a one-lane retail sales drive-through service in the CSS, Commercial Shopping and Services District.

Mr. Elias Flake of Metro Architecture was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Ms. MacDonald questioned whether directional signs were being required, so that incoming traffic off of Southern Avenue would know the correct direction to travel. Discussion between Mr. Flake and Ms. MacDonald addressed this issue, and Condition of Approval No. 3 was added to accommodate this subject.

Ms. MacDonald stated that this request meets the criteria for a use permit.

**DECISION:**

Ms. MacDonald approved PL110051 / ZUP11021 subject to the following conditions:

1. Obtain all necessary clearances and permits for tenant improvement from the Building Safety Division.
2. All nonconforming building lighting within forty (40) feet of the building and parking lot lighting within the scope of work shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review. Site lighting must remain on from dusk to dawn.
3. **Provide on site directional signage. Details shall be worked out with staff during the Plan Check process. ADDED BY HEARING OFFICER**

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3. Request by **HAYDEN UNIVERSITY CENTER - TEREQ HOOKAH LOUNGE (PL110107)** (Chris Doran/SDS Consulting Inc., applicant; Jewels of the West Old Town Trading Company, property owner) located at 1835 East University Drive, Suite Nos. 9-10, in the CSS, Commercial Shopping and Services District for:

**ZUP11019** Use permit to allow a retail smoke shop (Hookah Lounge) offering tobacco and tobacco paraphernalia products and live indoor entertainment (D.J. music and belly dancing).

Mr. Tereq Haj, owner, was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Mr. Haj acknowledged his understanding of the fifteen (15) assigned Conditions of Approval.

Karen Shofron, representing Casitas Tempe Homeowner Association, addressed concerns over this use such as undesirable individuals, increased crime such as drug problems, fire hazard, noise and trash, as well as hours of operation and pollution.

Attorney Jerry Luquist, counsel for the applicant, noted that this is properly run, legitimate business, and it will be controlled within the stipulations of the ordinance and in accordance with the Conditions of Approval.

Ms. MacDonald stated that this request meets the criteria for a use permit, and noted that the Conditions of Approval, such as Nos. 3 & 7, allow for recourse should problems occur due to this business operation.

**DECISION:**

Ms. MacDonald approved PL110107 / ZUP11019 subject to the following conditions:

1. The use permit is valid for Tereq Hookah Lounge and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective. Since smoking will be permitted on the premises, the owner/management is responsible to adhere to the City Adopted International Mechanical Code.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. All business signs shall receive a separate Sign Permit. Please contact Planning staff at (480) 350-8372.
7. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact William Gallauer at 480-350-8749 before May 5, 2011.
8. No outdoor speakers shall be allowed.
9. The live entertainment use shall take place inside only. No live entertainment will be allowed outside.

10. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
11. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.
12. All nonconforming building lighting along the east elevation shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review. Site lighting must remain on from dusk to dawn.
13. Replace dead and/or missing trees and landscape material in the landscape island in front of the suite and in the three (3) parking islands to the east.
14. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
15. The gross sale of beverage and food items may not exceed that of tobacco and hookah products for the hookah lounge tax license.

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4. Request by **CRICKET WIRELESS COMMUNICATIONS (PL110111)** (Scott Quinn/Quinn United Enterprises, applicant; R C Cabinets Inc., property owner) located at 4640 South Ash Avenue in the GID, General Industrial District for:

**ZUP11020** Use permit to increase the height of an existing monopole from 40 ft to 60 ft to allow co-location of wireless antenna.

Mr. Scott Quinn of Quinn United Enterprises was present to represent this case. He noted his agreement with the assigned Conditions of Approval.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Ms. MacDonald stated that this request meets the criteria for a use permit.

**DECISION:**

Ms. MacDonald approved PL110111 / ZUP11020 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Applicant shall ensure that previous permits for the existing monopole receive clearances from the Building Safety Division. This must be accomplished prior to the use permit becoming effective.
3. The monopole shall be no greater than 60'-0" (sixty feet) in height.
4. Any intensification or expansion of use will require a new use permit.
5. The wireless device shall be removed within thirty (30) days of discontinuance of use.

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The next Hearing Officer public hearing will be held on **Tuesday, April 19, 2011.**

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There being no further business the public hearing adjourned at 2:04 PM.

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Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson, Planning & Zoning Coordinator  
for Vanessa MacDonald, Hearing Officer  
SA:dm